

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

IN RE: C.R. BARD, INC.
PELVIC REPAIR SYSTEM
PRODUCTS LIABILITY LITIGATION

MDL No. 2187

THIS DOCUMENT RELATES TO

Kelly Burnheimer, et al. v. C.R. Bard, Inc., et al.

2:13-cv-08602

MEMORANDUM OPINION AND ORDER

Pending are (1) Defendant's Motion to Dismiss, filed by Tissue Science Laboratories Limited ("TSL") on March 30, 2018 [ECF No. 17]; and (2) Defendant C.R. Bard, Inc.'s Notice of Joinder in Defendant Tissue Science Laboratories Ltd.'s Motion to Dismiss, filed July 17, 2019 [ECF No. 23]. Defendant TSL asserts in the first Motion [ECF No. 17], joined by C. R. Bard, Inc. ("Bard") [ECF No. 23], that plaintiffs' case should be dismissed with prejudice for failure to comply with court orders, including the failure to timely provide the defendants with required pretrial discovery in violation of Pretrial Order Numbers 27, 28 and 275. Plaintiffs, who are *pro se*, have not responded. It appears from the docket that the plaintiffs' address is not current.

On July 10, 2019, the court entered a Show Cause Order directing plaintiffs to show cause on or before July 24, 2019, why the defendant who filed the first motion should not be dismissed. [ECF No. 22]. The court sent a copy of this order to plaintiffs

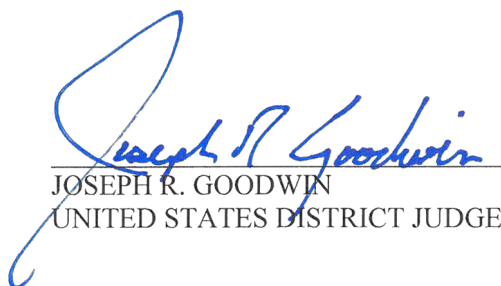
at their last known address and posted it on the court's public website. Plaintiffs did not show cause or otherwise respond.

The court finds, pursuant to Rules 16 and 37 of the Federal Rules of Civil Procedure and after weighing the factors identified in *Wilson v. Volkswagen of Am., Inc.*, 561 F.2d 494, 503-06 (4th Cir. 1977), that this case should be dismissed without prejudice for plaintiffs' failure to respond to the show cause order and otherwise comply with discovery deadlines in compliance with the court's previous pretrial and other orders.

Therefore, the court **ORDERS** that the motion to dismiss [ECF No. 17] is **GRANTED in part** to the extent the moving defendant, joined by Bard, seeks dismissal and **DENIED in part insofar as defendants seek dismissal with prejudice**. The court **ORDERS** that the defendants are dismissed without prejudice. No other defendants remain and the case is stricken from the docket and closed.

The court **DIRECTS** the Clerk to send a copy of this order to counsel of record and plaintiff at her last known address.

ENTER: August 8, 2019


JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE